APPENDIX A

§ 1391 of Title 28, United States Code. Pertinent provisions are:

> "(a) A civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in the judicial district where all plaintiffs or all defendants reside.
>
> "(b) A civil action wherein jurisdiction is not founded solely on diversity of citizenship may be brought only in the judicial district where all defendants reside, except as otherwise provided by law.
>
> "(c) A corporation may be sued in any judicial district in which it is incorporated or licensed to do business or is doing business, and such judicial district shall be regarded as the residence of such corporation for venue purposes."

Rule 52(a) of the Federal Rules of Civil Procedure:

> "(a) Effect. In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rule 41(b). As amended Dec. 27, 1946, eff. March 19, 1948; Jan. 21, 1963, eff. July 1, 1963."

APPENDIX B

EXCERPTS FROM CONSTITUTION AND GENERAL RULES OF THE BROTHERHOOD OF RAILROAD TRAINMEN ON FILE WITH THE DEPARTMENT OF LABOR PURSUANT TO § 201(a) OF THE LABOR MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

Name and Style.

Sec. 1. This organization shall be known in name and style as the "Brotherhood of Railroad Trainmen" and shall consist of one Grand Lodge, composed as hereinafter provided, and of such subordinate Lodges as may hold legal and unreclaimed charters granted by the Grand Lodge.

Name—Of What Composed.

Sec. 75. A subordinate lodge shall consist of at least ten members and shall be hailed and entitled ..... Lodge No. ..... of the Brotherhood of Railroad Trainmen, holding a legal and unreclaimed charter, granted by the President of the Brotherhood of Railroad Trainmen. It cannot voluntarily surrender its charter so long as ten members in good standing object thereto.

Jurisdiction and Authority.

Sec. 79. The jurisdiction of the lodge shall be that assigned to it by the President of the Brotherhood of Railroad Trainmen. It shall have jurisdiction over all members of the Brotherhood residing within its limits or employed on the system which it represents. Its decisions upon all matters within the power and limits of subordinate lodges of the Brotherhood shall be final unless appealed to and reversed by the President of the Brotherhood. It shall have the power to punish members for misconduct and

violation of obligation, and may summon witnesses and provide penalties for their non-attendance.

Duties of Grievance Committee.

Sec. 101. It shall be the duty of the local grievance committee to adjust all grievances that may be referred to it by the lodge, as per Rule No. 5 of the General Rules of the Constitution. It shall be the duty of the local chairman to investigate and adjust all schedule rule violations brought to his attention and where time has not been claimed for schedule violation the local chairman may make time claims for such violations of schedule, reporting his action at the next lodge meeting. Local chairmen will not be required to handle grievances arising as a result of minor personal injuries beyond the time lost and expenses incurred.

GENERAL RULES

Local Grievance Committees.

No. 1 (a) All subordinate lodges shall elect local grievance committees for each division or system represented in the lodge by five or more members, said committees to consist of three, namely, chairman, vice chairman and secretary, to be elected from among and by the members in actual train, yard or bus service on the division or system which the committee is to represent. . . .

General Grievance Committee—Elections.

No. 2 (a). On any line or system of railroad or bus company there shall be a general grievance committee formed in the month of January following the quadrennial election of local grievance committees for that line *and must* consist of the chairmen of the local grievance committees on that line of road, except that chairmen employed as yardmasters and representing yardmasters only may be members of the

general committee when the full general committee and the President approve. . . .

No. 2 (b). The officers of a general grievance committee shall be elected on the final day of the quadrennial formation, except the chairman who may have already been elected by referendum, and shall consist of a chairman, vice chairman, and secretary, whose terms of office shall be for four years, or until their successors have regularly qualified. . . .

Duties of General Grievance Committee.

No. 3. It shall be the duty of each general grievance committee carefully to investigate all matters lawfully placed in its hands. It shall have the power to alter, amend, add to, or strike out, any part or all of any complaint or claim submitted to the committee, except that a statute of limitation of two years is hereby declared in connection with the handling of any cases of uncontested seniority (applicable only to cases involving position and seniority rank on seniority rosters); and, further provided, that no case for reinstatement shall be accepted for handling by local lodge or local or general committee after the expiration of two years from date of dismissal, except where otherwise provided by schedule rules. After the committee has decided on the justness of any claim or complaint, it shall proceed with an effort to adjust the same with the general officers of the road or line in accordance with General Rule No. 10. General chairmen will be required to handle with any carrier any claim or grievance that has been appealed to the full general committee provided any limitation agreement exists on the property, and it shall be mandatory that the general chairman try to reach agreement with the management to extend the time limit. A general grievance committee or subcommittee thereof or an officer representing the Grand Lodge assisting a general committee shall not nego-

tiate an agreement with a carrier involving the changing of recognized home and other terminals in either pool or assigned freight or passenger service, or the reassignment of crews in connection therewith, without first circulating a referendum ballot to all members who hold seniority rights and are paying general grievance committee assessments on each seniority district, division or subdivision affected, with a majority of the ballots cast to decide the issue. . . .

The committee may, when authorized to do so, make and enter into contracts of agreement not inconsistent with the law and policy of the Brotherhood, with the railroad or bus line, the employes of which it represents, concerning rates of pay and working conditions; provided, however, that a standard rule will not be altered or amended without the permission of the President of the Brotherhood, and provided further, it is hereby declared that yard work and road work are two separate and distinct classes of service and the President of the Brotherhood, general committees and officers assigned to assist such general committees under the Constitution and General Rules are hereby obligated and instructed to maintain a definite and defined line of demarcation between such yard and road service to the end that employes of one class of service shall not encroach upon the rights of the employes of the other class of service, and this provision shall be mandatory only where the Brotherhood holds the contract for yard and road service. . . .

Duties of Chairman and Secretary of General Grievance Committee.

No. 4. The chairman of a general grievance committee shall preside at the meetings of the committee, act as its executive head, and see that the laws and rules of the Brotherhood are observed.

Consideration of Grievances.

No. 5. Any member considering that he has been unjustly dealt with by his employer, or that he is otherwise aggrieved or is denied compensation for time lost and expenses incurred by sustaining minor personal injuries in line of service, shall make a comprehensive statement of the grievance in writing containing all of the material facts necessary for a clear understanding of the grievance and present or mail the same to the secretary of his lodge for handling at the next regular meeting. The lodge shall then determine by a majority vote of the members present, employes of the division, whether to sustain or reject the grievance. Should the grievance be sustained, the lodge will then authorize either the local chairman or the local grievance committee to lay the matter before the trainmaster, superintendent, or other proper officer, and use every means to effect a satisfactory settlement, and report his or their action and all things pertaining to the case to the lodge. If the result is not satisfactory, it may be referred to the general grievance committee for further action. A member or a lodge may withdraw a grievance placed in the hands of a general grievance committee, provided such action is taken before said grievance has been presented by the general grievance committee to the officer of the company, but not thereafter.

All grievances must be handled by the regular local grievance committee, or by the local chairman if the lodge so directs, before being referred to the general grievance committee for adjustment. Grievances pertaining solely to members employed on a particular road or division or bus line shall be disposed of by a majority vote of the members of the lodge who are employed on such road or division or bus line; provided, that at least five such members must be present to take action upon such grievance. On small

systems where the office of general chairman is maintained, upon the request of all lodges on such systems, the President of the Brotherhood may issue dispensation permitting the general chairman to handle local grievances. Nothing in this rule shall be construed to prohibit a local lodge from submitting direct to state or national legislative boards matters involving violation of state or federal laws.

Failure of Local Committee to Adjust.

No. 8. When the local chairman or grievance committee fails satisfactorily to adjust any grievance referred to it, as provided in the foregoing rules, and if the lodge so orders it, the secretary of the lodge shall immediately send a certified copy of the grievance to the chairman of the general grievance committee, provided however, that if a time limit is involved the secretary shall forward such certified copy of said grievance to the chairman of the general committee, reporting his action at the next meeting of the subordinate lodge. It shall be the duty of the chairman of the general grievance committee, on receipt of certified copy of grievance, to appoint a time for the consideration of the grievance, and to summon the secretary of the general grievance committee and if requested by the member and approved by the lodge, the chairman of the local grievance committee of the lodge where the grievance exists, to meet with him at an appointed time, in the city where the headquarters of the general superintendent or the general manager of the railroad or bus line, for that part of the system on which the grievance exists, is located. Expenses of the local chairman in such cases, shall be borne by the general grievance committee. A committee thus constituted shall have power to alter, amend, add to or strike out or with the approval of the President refer

to the Legislative Department of the Brotherhood any part or all of any complaint or claim submitted to the committee, subject to appeal to the entire general committee and/or Board of Appeals. A general grievance committee may authorize their chairman to handle all grievances received from local lodges with the management for settlement, failing in this, he will so report to the secretary of the general grievance committee and the chairman of the local lodge where the grievance exists to determine further handling.

Action of General Committee.

No. 10. The general grievance committee, as thus constituted shall have all the rights and powers of the full general grievance committee of the system in the consideration of the pending grievance. If the grievance is approved, the committee shall present it to the general officers of the company and use every honorable means to adjust the same; failing in this, they shall report to lodge where grievances exist to determine further handling; they may summon the President of the Brotherhood to their assistance. Cases closed out involving compensation will be held in abeyance until such time as the secretary of the lodge where grievance originated is notified and given an opportunity to appeal, if so desired.

President Shall Meet General Committee.

No. 12. When the President of the Brotherhood receives such request, he shall, in preference to all other business, except while in attendance at sessions of the Grand Lodge, meet (or deputize an officer of the Grand Lodge to act for him) with the general grievance committee and renew all honorable methods to effect an amicable and satisfactory adjustment of the grievances. Failing in this, the matter

will be referred to the full general grievance committee, with a concise statement of the entire controversy, together with the result of their attempt to adjust the controversy with the managing officers of the property, and if two-thirds or more of the members of the general grievance committee vote in favor of withdrawing from the service rather than continue under the conditions specified by the company, the President of the Brotherhood and the general grievance committee shall have authority to sanction a strike, that is, to approve of a concerted and peaceable withdrawal from the service of all members of the Brotherhood employed in train, yard or bus service on the system or part thereof affected; provided, however, nothing in this rule shall prohibit the circulation of a referendum strike ballot when it appears that the best interests of the membership would not be jeopardized by the delay incident thereto.

Failure to Abide by Decision of General Committee—Penalty.

No. 13. Whatever action may be taken by the general grievance committee of any system within the meaning of the above General Rules shall be law to the lodges on that road or bus line until and unless reversed by the Board of Appeals.